

COMMISSION HEARING OFFICER DIRECTIVE

ADMINISTRATIVE MATTERS ☐

DATE March 16, 2006

MOTOR CARRIER MATTERS ☐

DOCKET NO. 2005-57-C

UTILITIES MATTERS ☒

ORDER NO. N/A

HEARING OFFICER: Charles L.A. Terreni



DOCKET DESCRIPTION:

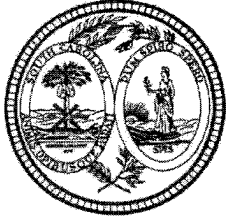
Joint Petition for Arbitration of NewSouth Communications Corporation, NuVox Communications, Incorporated, KMC Telecom V, Incorporated, KMC Telecom III LLC, and Xspedius [Affiliates] of an Interconnection Agreement with BellSouth Telecommunications, Incorporated Pursuant to Section 252(b) of the Communications Act of 1934, as Amended.

ADMINISTRATIVE MATTER UNDER CONSIDERATION:

(1) Motion of Joint Petitioners for Leave to present testimony of Professor John P. Freeman out of time and for Waiver of Prefiled Testimony requirement.

HEARING OFFICER ACTION:

Joint Petitioner's Motion is Denied for the reasons set forth in the letter attached as Exhibit A to this Directive.



The Public Service Commission State of South Carolina

Charles L. A. Terreni
Chief Clerk/Administrator
Phone: (803) 896-5133
Fax: (803) 896-5246

EXHIBIT A

COMMISSIONERS
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Administrative Department
Phone: (803) 896-5100
Fax: (803) 896-5246

March 16, 2006

John J. Pringle, Jr., Esquire
Ellis Lawhorne & Sims
Post Office Box 2285
Columbia, South Carolina 29202

Ben Mustian, Esquire
Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211

Patrick W. Turner, Esquire
BellSouth Telecommunications, Inc.
Post Office Box 752
Columbia, South Carolina 29202

Re: Docket No. 2005-57-C - Joint Petition for Arbitration of NewSouth Communications Corporation, NuVox Communications, Incorporated, KMC Telecom V, Incorporated, KMC Telecom III LLC, and Xspedius [Affiliates] of an Interconnection Agreement with BellSouth Telecommunications, Incorporated Pursuant to Section 252(b) of the Communications Act of 1934, as Amended.

Dear counsel:

I am writing to you all with regard to our telephone conference of 1:00 pm, on Wednesday, March 15, 2006. I convened this telephone conference in my capacity as a Hearing Officer appointed by the Commission to hear and dispose of procedural matters in this case. In our telephone conference we discussed Mr. Pringle's correspondence on behalf of the Joint Petitioners dated March 10, 2006, indicating that he intended to call Professor John P. Freeman as a witness at the hearing scheduled March 23, 2006.

At the outset of the conversation, I disclosed that, over one year ago, I was professionally associated with Professor Freeman insofar as I, and other co-counsel, had jointly retained him as a consulting attorney in several legal matters, and that he had on several occasions filed affidavits in support of our fee petitions. I do not believe that this previous relationship with Professor Freeman affects my ability to act objectively in this matter. No party indicated any objection to my continued participation in this proceeding after receiving this information, and counsel for BellSouth subsequently indicated his client's waiver of the right to assert any potential conflicts on this basis.

March 16, 2006

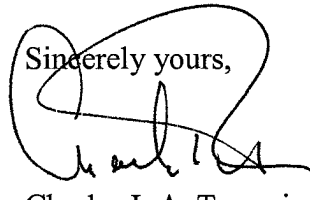
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In our telephone conversation, the parties indicated no objection to my treating Mr. Pringle's letter of March 10th as a motion for leave to present Professor Freeman's testimony outside of the time established in the Commission's previous scheduling orders and as a motion for waiver of the pre-filed testimony requirement. BellSouth, however, did object to the substance of the Joint Petitioners' motion, on the grounds that the issues discussed in the affidavit have already been argued by the parties, and that the Joint Petitioners seek to introduce testimony on the law. In the event that the Commission should allow Professor Freeman to testify, BellSouth asked for leave to present the testimony of Professor Gregory Adams on the same terms, a request to which the Joint Petitioners did not object.

As Hearing Officer I deny the Joint Petitioners motion to allow Professor Freeman to testify. The Joint Petitioners have not presented a sufficient basis for departing from the Commission's prior scheduling orders and allowing Professor Freeman to testify. Professor Freeman's testimony would largely involve matter of law, and I am not persuaded that any factual testimony this witness would give would be useful to the Commission in resolving this matter. However, Professor Freeman is welcome to appear and argue before the Commission as co-counsel for the Joint Petitioners, or he may also move for leave to be heard in this matter as a friend of the Commission. Professor Adams is welcome to appear on the same terms for BellSouth.

Thank you for your assistance in convening our telephone conference yesterday.

With best wishes, I am,

Sincerely yours,

Charles L.A. Terreni

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